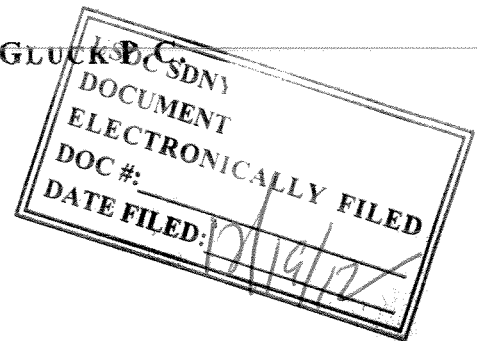


ROBINSON BROG LEINWAND GREENE GENOVESE & GLUCK

875 THIRD AVENUE, 9TH FL.
NEW YORK, NEW YORK 10022

(212) 603-6300

FAX (212) 956-2164



MEMO ENDORSED

December 17, 2012

APPLICATION GRANTED
SO ORDERED
VINCENT L. BRICCETTI
U.S.D.J.

VIA FAX

Honorable Judge Vincent L. Briccetti
United States Courthouse
Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4150

Time extended to 1/31/13

Re: Gustavo Cardenas, et al v. AAA Carting & Rubbish Removal Corp., et al
Index No. 12CV7178

Dear Judge Briccetti:

We represent Defendants ("Defendants") in the above-referenced action pending before Your Honor. We write to request that the time for Defendants to respond to the Class Action Complaint be extended to January 31, 2013. This is the first request for an enlargement of time, and, as discussed below, depending on what affidavit of service of process governs, the time to respond to the complaint may either be as late as January 2, 2013, or it could be as early as December 20, 2012, which is why we are raising this issue with the Court now. We contacted Plaintiff's counsel last week to seek his consent to this enlargement, but, as of now, he has not returned my call.

The extension to January 31, 2013 is necessary given that the complaint seeks relief as a class action, and we have not yet had an opportunity to address the allegations in the complaint with our clients. The purported class is all of AAA Carting & Rubbish Removal Corp.'s employees and former employees seeking wages and other relief. We are also examining the possibility of insurance coverage for the defense of this claim.

According to the affidavits of service filed in this action, the Summons was affixed to the door of Defendants' actual place of business. Under CPLR 308(4), when service is made in that fashion, service is deemed complete 10 days after filing proof of service. Affidavits of service were filed by Plaintiffs via ECF on November 19, 2012, and amended affidavits of service were then filed by Plaintiffs on December 6, 2012 with an apparent correction to the service address. If we use the later filed affidavit of service (*i.e.*, December 6, 2012), the response to the

complaint would be due on January 7, 2013, but if we use the November 19, 2012 filing, a response could be due as early as December 20, 2012. Given the above circumstances, we believe it is prudent to request an extension of time to respond so we have a date certain, and, given the nature of the case as well as the holidays, the request herein is reasonable and warranted.

Accordingly, we request that Your Honor grant Defendants' request to extend their time to respond to the complaint to January 31, 2013.

Thank you for your consideration of this matter.

Respectfully submitted,

ROBINSON BROG LEINWAND GREENE
GENOVESE & GLUCK P.C.

By: 

Nicholas Caputo

CC via email:

Michael J. Mauro, Esq.
Milman Labuda Law Group PLLC
3000 Marcus Avenue, Suite 3W8
Lake Success, New York 11042
(516) 328-8899
mikemauro@mlaborlaw.com
Attorneys for Plaintiffs